

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

SWVA, INC., a Delaware corporation,
occasionally d/b/a SWVA and/or
STEEL OF WEST VIRGINIA,

Plaintiff,

v.

CIVIL ACTION NO. 3:09-0074

WILLIAM EARL LYND, JR.,

Defendant.

ORDER

The Court **HOLDS IN ABEYANCE** the Plaintiff's Motion for Pre-Judgment Attachment (Doc. 3) to allow the Plaintiff, SWVA, Inc., (hereinafter "SWVA") an opportunity to amend its motion to establish that both state and federal law permit the attachment of funds held in the Defendant's name under the SWVA, Inc. Collective Bargaining Agreement Unit Retirement Plan.

While SWVA's motion sets forth the applicable state laws for attachment of a non-resident's retirement account, it is lacking any reference to a key component of Fed. R. Civ. P. 64, which states that "a federal statute governs to the extent it applies" to remedies available under state law. SWVA must establish that no federal laws, including, but not limited to, the Employee Retirement Income Security Act of 1974, 29 U.S.C., §§1001 et. seq, 1056(d), bar it from attaching the retirement funds.

The Court **DIRECTS** the Clerk to send a copy of this written Order to counsel of record and any unrepresented parties.

ENTER: February 3, 2009

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE